

Montana State Reform School, Powers of Board. State Reform School (See Montana State Reform School). Reform School.

The opinion deals with questions relating to recapture of escaped inmates, paroles, pardons, criminal actions against inmates, and sale of the Reform School farm products.

Helena, Montana, Dec. 12, 1907.

Hon. Joseph K. Toole,
Governor,
Helena, Montana.

Dear Sir:—

I am in receipt of your favor of the 12th inst., enclosing letter of Rev. D. B. Price, Director of the State Reform School, in which certain questions are submitted with respect to the conduct of the affairs of the Reform School. In compliance with your request I have given consideration to the questions submitted and here set forth and answer the questions in their order.

1. Are requisitions necessary in sending out of the State for boys who run away from the Reform School, or does the fact that they are minors and wards of the State warrant a different mode of procedure?
2. Would it be regular for the Board of Trustees and the Directors to petition for the pardon of inmates of the Reform School?

3. When a boy on parole violates that parole and an officer notifies us of the fact and requests us to come and get him, is it mandatory?

4. Should we proceed in the courts against a young man who swears falsely regarding his age in order to escape a sentence to the penitentiary?

5. Has the Board of Trustees the right to make non-residence in Miles City a condition of parole?

6. Is the sale of the product of the Reform School farm a violation of the law?

We will consider these questions in the order enumerated.

1. Where a minor is committed to the Reform School upon a complaint charging him with a crime, and escapes to another State, the proper method of procedure is by requisition as in other criminal cases. If the committment to the Reform School, however, is based upon a conviction for some petty offense not recognized as a crime, as mendicancy, vagrancy, or incorrigibility, there is no provision of law by which his return from a foreign State can be enforced, except by original proceedings in the courts of such other State.

2. There is no impropriety in the Board of Trustees or the Director of the State Reform School recommending the pardon of an inmate thereof; and, in fact, such officials are, perhaps, best informed as to whether a pardon should be granted. The provisions of Section 3078, Penal Code, wherein it is provided that an inmate of the school who has been found "incorrigible, unmanageable, or detrimental to the best interests of the school * * * may be returned to the court which made the committment" to be dealt with in such manner as the court may determine, and also the provisions of Section 3092, Penal Code, which, in substance, provides that where a minor has been committed to the Reform School on a commutation of state prison sentence, and "who persists in a depraved course", may be recommitted to the State Prison, may afford some relief from the conditions stated in Mr. Price's letter, resulting from the wrongful acts of boys who still have one or two years to serve before reaching their majority.

3. Where an inmate has been paroled it is not mandatory upon the officers of the school to re-commit him upon advice that the parole has been violated, unless it is made mandatory by the rules which govern the institution, and which have been adopted for the guidance of the trustees and Directors (Sections 3093-3094 Penal Code).

4. False swearing may or may not be perjury. To be perjury it must be done in such a manner as to violate the provisions of Section 240 Penal Code, which defines perjury. And whether it is advisable to proceed against inmates of the school who have sworn falsely, or made false statements, must necessarily depend upon the particular circumstances of each case, and no general rule can be established. If a case of this kind arises it is within the province of your Excellency to require a detailed statement of the facts before a complaint is filed charging a ward of the State with a commission of a crime, for such facts might not in your judgment warrant such procedure.

5. The exercise of the power of parole is a matter of discretion, and the Board may therefor, as a condition to its being granted, make such reasonable rules and regulations as to it may seem to the best interests of the school, and this may include the condition that the party paroled shall remain away from the school and away from the city in which the school is situated.

6. There is no law which prohibits the sale of the products of the Reform School Farm. The only law which could have any bearing upon the subject at all is Section 2, Art. 18 of the State Constitution, which prohibits the letting "by contract to any person or corporation the labor of any convict within the said institutions" (State penitentiary and Reformatory institutions) but this does not prohibit the school from marketing the product of its farm.

Respectfully submitted,

ALBERT J. GALEN,

Attorney General.